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EXAMINER	
THAKUR, VIREN A	

ART UNIT	PAPER NUMBER
1794	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/501,849	SCHLEKER ET AL.	
	Examiner	Art Unit	
	VIREN THAKUR	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 April 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *15-34* is/are pending in the application.

4a) Of the above claim(s) *15-19 and 26-30* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *20-25 and 31-34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *7/16/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Election/Restrictions

2. Applicant's election without traverse of Group II, claims 20-25 and 31-34 in the reply filed on April 2, 2008 is acknowledged.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 20-25 and 31-34 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for temperature sensitive and temperature insensitive spices and herbs, does not reasonably provide enablement for temperature sensitive and temperature sensitive ingredients. The

specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

A number of factors must be considered in assessing the enablement of an invention, including the following: the breadth of the claims, the amount of experimentation necessary, the guidance provided in the specification, working examples provided, predictability, and the state of the art. See In re Wands, 858 F.2d 731, 8 USPQ2nd 1400 (Fed. Circ. 1988). Applicants have referred to the components of the oil and water phases as “temperature sensitive ingredients” and temperature insensitive ingredients.” It is noted that the specification recites the limitations “temperature sensitive spices and herbs” and “temperature insensitive spices and herbs" For instance, in paragraph 0008 on page 3 of applicants' specification the limitations of temperature sensitive and temperature insensitive are described (but not defined). Even further, examples on pages 17-19 and table 1, only provide guidance for a limited amount number of herbs and spices and their sensitivity to temperature. The specification does not provide guidance for the combination of temperature sensitive and temperature insensitive ingredients other than herbs and spices, which would also have resulted in achieving applicants’ invention. As such, the predictability of achieving applicants’ invention with any ingredient which is temperature sensitive and insensitive has not been adequately supported. Additionally, applicants have indicated on pages 1-2 of the specification that no dry semi-ready meals are retailed that do not include the ingredients which are considered “extremely controversial in modern nutritional

physiological views," and which thus comply with European Directive No. 2092/91, German AGOL, Bioland or Demeter associations or IFOAM requirements. Applicants further assert that this requires that the dry semi-ready meals must not contain chemically prepared organically-identical or artificial flavorings or food additives, as listed in attachment 1. It is noted that an attachment 1 has not been included with applicant's disclosure and as such, those "ingredients" which are considered within applicants' scope is not clear. The claims read on any ingredients which are temperature sensitive and insensitive; however the specification provides limited guidance on the disclosure of such a broad range of temperature sensitive and insensitive ingredients, let alone herbs and spices.

Therefore, the breadth of the claims, in combination with the limited support in the specification would have resulted in an undue amount of experimentation to achieve applicants' invention comprising temperature sensitive and temperature insensitive ingredients.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 20-25 and 31-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 20 and 25 recite the limitation "after mixing same with the first batch in the aqueous solution in combination with the inherent taste and odor of staple ingredients."

Claim 31 recites the limitation "aqueous solution and cooking any staple ingredients included with the first batch." The claims are unclear as to whether the staple ingredients are included within the package comprising the ingredients to be included with the aqueous solution, upon preparing. Additionally, it is unclear as to how the first or second batch can be considered dry or dried, since it is unclear as to whether the staple ingredient is also dry. Claims 20 and 25 are further unclear since the claims recite "after mixing same with the first batch in the aqueous solution in combination with the inherent taste and odor of staple ingredients." This limitation in claims 20 and 25 also make it unclear, with respect to these claims, as to whether there are any staple ingredients or whether only the inherent taste and odor of staple ingredients is within the mixture.

Claim 20 further recites the limitation "high gustatorial quality." It is unclear as to what is considered high gustatorial quality, since this is a subjective term.

Claims 20, 25 and 31 further recite the limitations "temperature-sensitive ingredients" and "temperature insensitive ingredients." These limitations are not clear, in the claims, since the product and the method of using the product, as claimed incorporate the step of heating both of the temperature sensitive and the temperature insensitive ingredients. Therefore, both sets of ingredients are still sensitive to temperature, since both require heating to cook or to enhance the olfactory properties of the ingredients. Furthermore, depending on the temperatures of the ingredients, all food components that require cooking or heating would have been sensitive to temperature to some degree. These limitations are further unclear since applicant has

not provided definitions for what are considered temperature sensitive and temperature insensitive ingredients.

Claims 20, 25 and 31 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The claims recite two batches packaged separate from each other but never positively recite a step of opening the package.

Claim 25 recites the limitation "to prepare a meal for sale in vending machines." The claim is unclear as to whether the meal is prepared in the vending machine or whether the package is in the vending machine, which is subsequently prepared by the consumer.

Claims 21, 22 and 33 recite the limitation "the aqueous phase." There is insufficient antecedent basis for this limitation in the claim. It is further unclear as to whether the aqueous phase is different form the aqueous solution.

Claims 22 and 33 recite the limitation "wherein the step of mixing the aqueous phase with the flavored cooking oil and/or fat is done before cooking the staple ingredients."

Analogously, claims 23 and 34 recite the limitation "coating and/or searing fresh staple ingredients with the flavored cooking oil and/or fat before being mixed and cooked with the ingredients of the first batch in the aqueous solution.

It is unclear as to how this step can be performed, since both the independent claims from which the recited claims depend each recite combining the temperature sensitive ingredients with the staple ingredients prior to mixing with the flavored oil

and/or fat. Claim 20 recites wherein the temperature sensitive ingredients are absorbed with the staple ingredients and then the aqueous solution is mixed with the flavored cooking oil. Claim 31 recites wherein the aqueous solution is heated and the staple ingredients are cooked with the first batch." Therefore it is not clear as to how the flavored cooking oil and/or fat can be combined with the staple ingredients prior to the addition of the temperature sensitive ingredients.

Claims 23 and 34 recite the limitation "fresh staple ingredients." The claims are unclear as to what is considered a fresh staple ingredient, especially since the term fresh, is subjective.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 25 provides for the use of a dried, packaged semi-ready meal, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claim 25 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd.* v. *Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 20-21, 24 and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Classic Indian Vegetarian and Grain Cooking (referred to as *Classic Cooking)* in view of Shi (WO9118792), Kira (JP 6197681) and Koshida et al. (US 4267199).

Regarding claims 20 and 31, Classic Indian Vegetarian and Grain Cooking teaches a method of preparing a meal of high quality comprising adding a first batch of ingredients to an aqueous solution and heating the aqueous solution to absorb the ingredients into the aqueous solution and cooking the staple ingredients with the first batch of ingredients (see page 1 of 2 - cooking the lentils with seasoning such as tumeric and green chilies). The herbs and spices in the first batch are dry (i.e. tumeric, green chilies and salt). The first batch further comprises the staple ingredient, such as the lentils. The herbs and spices in the second batch are also dried (i.e. panch phoron spice mix, bay leaves chili pods). *Classic Cooking* further teaches adding a second batch of herbs and spices to cooking oil and/or fat (See page 1 to 2 - "While the lentils are cooking…"). The process teaches heating the spice mix and then mixing the spice mix heated in the oil with the aqueous solution comprising the cooked lentils with the other spices incorporated into the aqueous solution.

Claims 20 and 32 differ from *Classic Cooking* in specifically reciting wherein the first batch and second batch of ingredients are packaged separate from one another.

Shi has been relied on to teach the conventionality of packaging ingredients separate from one another, while also including all the ingredients required to make a meal. Therefore Shi teaches that the concept of a kit which packages all the ingredients required to prepare a meal has been well known in the art. Each of the ingredients has been packaged separate from one another, as shown in Shi's figures. To therefore prepackage the ingredients required to prepare a meal, such as that of *Classic Cooking* would have been obvious to the ordinarily skilled artisan, since Shi teaches providing a

convenient package with instructions for a consumer to prepare a meal of high quality, at home and on their own (Page 2, line 3 to page 4 line 19) without requiring the user to search for and separately purchase all the required ingredients.

Koshida et al. has been relied on to teach the conventionality of a meal wherein a first batch of herbs and seasoning is packaged separately from a second batch of herbs and seasonings (Figure 1, Items 2 and 3 and column 2, lines 27-58) and which are combined at different intervals during the preparation process. The seasonings are packaged separately since one batch of seasoning reacts unsuitably when heated.

Kira similarly teach a meal wherein all the ingredients are dried and are then rehydrated and cooked under heat with the addition of the seasoning packets (see paragraph 0025-paragraph 0035). Based on the teachings of Shi, Koshida et al. and Kira, the art teaches the conventionality of packaging seasoning packets separate from each other as well as packaging a staple ingredient to be included. To therefore package the herbs and spices used by *Classic Cooking* separate from on another would have been obvious to one having ordinary skill in the art, since Koshida et al. teaches separate packaging of herbs and seasonings that react differently in specific heat situations. Additionally, however, to package the herbs and spices separate from one another would further have been obvious since *Classic Cooking* teaches using these ingredients in separate preparation steps and since Shi, Kira and Koshida et al. teach the conventionality of separately packaging ingredients to be incorporated at different steps in the preparation of the food product. Regarding the limitations of “temperature sensitive” and “temperature insensitive,” in light of the rejection under 35 U.S.C. 112,

second paragraph above, it is noted that *Classic Cooking* teaches the use of a first mixture of dry herbs and spices in a first preparation step incorporating an aqueous solution, and a second mixture of herbs and spices in a second preparation step incorporating an oil. Therefore, *Classic Cooking* inherently teaches the temperature sensitivity of the herbs and spices, since a particular set of herbs and spices are cooked in oil, resulting in a flavored "sauce", while others are in an aqueous solution. In any case, however, Koshida et al. also teach the conventionality of particular seasonings having high sensitivity to cooking, as discussed above. Kira also teach adding ingredients during the pan frying process (See Figure 5) and adding other ingredients after cooking (see figure 6).

Regarding claims 21 and 32, *Classic Cooking* teaches a method wherein the flavored cooking oil and/or fat is mixed after cooking the staple ingredients (lentils) in the aqueous phase.

Claim 24 differs from the prior art in specifically reciting wherein cooking oil and/or fat is heated for flavoring with the ingredients of the second batch to a temperature in the range of 120°C to 170°C.

It is noted that *Classic Cooking* teaches the conventionality of heating oil in a frying pat at medium-high heat (see bottom of page 1), but is silent in the particular temperature for heating the fat. Nevertheless to employ a temperature in the range of 120°C to 170°C would have been an obvious matter of choice, routinely determinable by experimentation for the purpose of achieving the desired flavor and other properties as well as preparation time, to the sauce taught by *Classic Cooking*.

11. Claims 22 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 20-21, 24 and 31-32, above and in further view of GoogleGroups (Chanterelles).

Claims 22 and 33 differ from the combination of references of the prior art in the particular order of the steps for preparing the meal. Specifically, the claims recite wherein the step of mixing the aqueous phage with the flavored cooking oil and/or fat is done before cooking the staple ingredients.

As discussed above under 35 U.S.C. 112, second paragraph, the claims are unclear as to whether "aqueous phase" refers to the aqueous solution or some other aqueous product. In any case, GoogleGroups (Chanterelles) teaches adding herbs and spices to a melted fat, such as butter (See bottom of page 2 and top of page 3) and then adding an aqueous phase, such as wine, into the flavored cooking oil. This results in a thick product, which is then combined with another aqueous solution comprising a stock solution and mushrooms, which is then served over rice or pasta, which would also have to be cooked. GoogleGroups teaches the concept of adding an aqueous phase of ingredients into a fat phase and then adding the staple ingredient. To therefore add an aqueous solution, such as wine to the flavored cooking oil, such as the butter, with flour, salt and pepper, would have been an obvious matter of choice to the ordinarily skilled artisan for adding a particular flavor incorporated with the aqueous solution into the sauce prepared with the fat. The concept of adding this aqueous phase to the heated, flavored fat of *Classic Cooking* would thus have been an obvious

matter of choice to the ordinarily skilled artisan to modify the flavor of the sauce added to the lentils.

It is noted that the method steps appear to be a recipe for cooking a particular meal based on the ingredients included in the package, as well as the type of meal to be prepared. Further in this regard applicant is referred to In re Levin, 84USPQ 232 wherein the Court stated on page 234 as follows:

This court has taken the position that new recipes or formulas for cooking food which involve the addition or elimination of common ingredients, or for treating them in ways which differ from the former practice, do not amount to invention, merely because it is not disclosed that, in the constantly developing art of preparing food, no one else ever did the particular thing upon which the applicant asserts his right to a patent. In all such cases, there is nothing patentable unless the applicant by a proper showing further establishes the coaction or cooperation relationship between the selected ingredients, which produces a new, unexpected and useful function. In re Benjamin D. White, 17 C.C.P.A. (Patents) 956, 39 F. 2d 974, 5 USPQ 267; in re Mason et al., 33 C.C.P.A. (Patents) 1144, 156 F. 2d 189, 70 USPQ 221.

12. Claims 23 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 20-21, 21 and 31-32, above and in further view of GoogleGroups (Garlic Chicken).

Claims 23 and 24 differ from the combination of references in the particular order of the steps for preparing the meal. Specifically the claims recite wherein coating

and/or searing fresh staple ingredients with the flavored cooking oil and/or fat before being mixed and cooked with the ingredients of the first batch in the aqueous solution.

GoogleGroups (Garlic Chicken) teaches a process of making a meal wherein fat, such as butter is melted and to which a spice, such as garlic is added. This is the flavored cooking oil. To this flavored cooking oil is added a staple ingredient, such as shrimp, which are thus then coated with the flavored cooking oil. (See page 3 of 6 to 4 of 6 - "Shrimp in Garlic Cream Sauce"). Then, an aqueous solution comprising wine is boiled in the frying pan and any bits from the bottom of the pan are incorporated into the reduced wine preparation. Then the coated shrimp which have been heated are then placed into the solution comprising cream and reduced wine and cooked. The GoogleGroups references thus teaches the conventionality of coating a staple ingredient with a flavored fat and then cooking with an aqueous phase. To therefore coat a staple ingredient prior to combining with a first batch in an aqueous solution would have been an obvious modification to a preparation method for the purpose of achieving a desired flavor to the staple ingredient prior to mixture with the other ingredients.

It is noted that the method steps appear to be a recipe for cooking a particular meal based on the ingredients included in the package, as well as the type of meal to be prepared. Further in this regard applicant is referred to In re Levin, 84USPQ 232 which is cited above.

13. Claims 20-21, 24 and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koshida et al. (US 4267199) in view of Classic Indian Vegetarian and Grain Cooking (referred to as *Classic Cooking)* and Shi (WO9118792).

Regarding claims 20 and 31, Koshida et al. teach a package comprising a first batch of dried herbs and spices, and a second batch of herbs and spices, which are added at separate times during the preparation process for the meal (Figure 1, Items 2 and 3 and column 2, lines 27-58).

Claims 20 and 31 differ in the particular method steps for preparing the meal.

Classic Cooking teaches a method of preparing a meal of high quality comprising adding a first batch of ingredients to an aqueous solution and heating the aqueous solution to absorb the ingredients into the aqueous solution and cooking the staple ingredients with the first batch of ingredients (see page 1 of 2 - cooking the lentils with seasoning such as tumeric and green chilies). The herbs and spices in the first batch are dry (i.e. tumeric, green chilies and salt). The first batch further comprises the staple ingredient, such as the lentils. The herbs and spices in the second batch are also dried (i.e. panch phoron spice mix, bay leaves chili pods). *Classic Cooking* further teaches adding a second batch of herbs and spices to cooking oil and/or fat (See page 1 to 2 - "While the lentils are cooking…"). The process teaches heating the spice mix and then mixing the spice mix heated in the oil with the aqueous solution comprising the cooked lentils with the other spices incorporated into the aqueous solution. Therefore the particular steps for preparing the meal have been conventional in the art and thus would

have been obvious to one having ordinary skill in the art for art recognized in applicants' intended function for the purpose of preparing a particular meal wherein a flavored oil is first prepared and an aqueous solution comprising another batch of spices is prepared and then combined to produce a meal.

Shi has been further cited as evidence of the conventionality of separately packaging ingredients for preparing a high quality meal.

Regarding claims 21 and 32, *Classic Cooking* teaches a method wherein the flavored cooking oil and/or fat is mixed after cooking the staple ingredients (lentils) in the aqueous phase.

14. Claims 22 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 20-21, 24 and 31-32, above in paragraph 12 and in further view of GoogleGroups (Chanterelles).

The claims differ from Koshida et al. modified by the prior art in the particular order of the combination of the ingredients, for preparing the meal. GoogleGroups has been relied on to teach the conventionality of mixing an aqueous phase with the flavored cooking oil and then cooking with the staple ingredient, as discussed above in paragraph 10. To therefore employ a method of preparing wherein the aqueous phase is mixed with the flavored cooking oil to which is added the staple ingredient would have been an obvious for art recognized in applicants' intended function, for the purpose of preparing a particular type of meal with the ingredients.

It is noted that the method steps appear to be a means for cooking a particular meal based on the ingredients included in the package, as well as the type of meal to be prepared. Further in this regard applicant is referred to In re Levin, 84USPQ 232 which is cited above.

15. Claims 23 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 20-21, 21 and 31-32, above, in paragraph 12 and in further view of GoogleGroups (Garlic Chicken).

The claims differ from Koshida et al. modified by the prior art in the particular order of the combination of the ingredients, for preparing the meal.

GoogleGroups has been relied on to teach the conventionality of the steps of coating fresh staple ingredients with the flavored cooking oil and/or fat and then mixing and cooking the ingredients with the aqueous solution, as discussed above in paragraph 11. To therefore modify the order in performing the steps for preparing the meal would have been obvious to the ordinarily skilled artisan for art recognized in applicants' intended function since GoogleGroups teaches the conventionality of these particular process steps for preparing the meal, in order to achieve a desired flavor.

It is noted that the method steps appear to be a means for cooking a particular meal based on the ingredients included in the package, as well as the type of meal to be prepared. Further in this regard applicant is referred to In re Levin, 84USPQ 232 which is cited above.

16. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 20-21, 24 and 31-32 above in either of paragraph 10 or 13, and Gunson (US 3759723) and Ahlstrom (US 4974747).

The claim differs from the combination of the prior art in specifically reciting wherein the meal is prepared for sale in vending machines.

Gunson teaches vending dehydrated meats with as ingredients in vendible soup mixes (Column 4, lines 45-53). Ahlstrom teaches that it has been well known in the art to vend components, which can be combined to form a meal (see column 1, lines 25-35 and column 2, lines 16-33). The art thus teaches the conventionality of separately packaging components for preparing a meal and also teaches requiring additional finishing such as microwave cooking the food, or hydrating with hot water. Since it has been conventional in the art to vend packages for making meals, it would have been obvious to vend the package of modified Koshida et al. or modified *Classic Cooking* for the purpose of dispensing a meal kit at a variety of convenience locations.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 6422454, US 6056984, US 3547658, US 2424536, US 2236641, US 5279841, US 2679281 are cited to teach the conventionality of separately packaging multiple components within a package which are subsequently combined. US 7189423 discloses the mixing of an oil phase and a water phase, which both include

an herb or spice type ingredient to make a sauce. US 4592485 discloses vending machines that dispense a meal.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VIREN THAKUR whose telephone number is (571)272-6694. The examiner can normally be reached on Monday through Friday from 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571)272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/V. T./
Examiner, Art Unit 1794

/Steve Weinstein/
Primary Examiner, Art Unit 1794